

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO
CRIMINAL RULE (I.C.R.) 35

ORDER

The Court having reviewed proposed amendments to the Idaho Criminal Rules, and the Court having fully considered the same;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Criminal Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 35 be, and the same is hereby, amended to read as follows:

Rule 35. Correction or reduction of sentence.

- (a) Illegal sentences. The court may correct a sentence that is illegal from the face of the record ~~an illegal sentence~~ at any time.
- (b) Sentences imposed in an illegal manner or reduction of sentence. The court ~~and~~ may correct a sentence that has been imposed in an illegal manner within the time provided herein for the reduction of sentence. The court may reduce a sentence within 120 days after the filing of a judgment of conviction or within 120 days after the court releases retained jurisdiction. The court may also reduce a sentence upon revocation of probation or upon motion made within fourteen (14) days after the filing of the order revoking probation. Motions to correct or modify sentences under this rule must be filed within 120 days of the entry of the judgment imposing sentence or order releasing retained jurisdiction and shall be considered and determined by the court without the admission of additional testimony and without oral argument, unless otherwise ordered by the court in its discretion; provided, however that no defendant may file more than one motion seeking a reduction of sentence under this Rule.
- (c) Credit for time served prior to sentencing. A motion to correct the computation of credit for time served prior to sentencing may be made at any time.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Criminal Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 9 day of December, 2009.

By Order of the Supreme Court



Daniel T. Eismann
Chief Justice

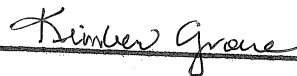
ATTEST: Stephen Kenyon
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court 12/10/09

STEPHEN W. KENYON

Clerk

By:



Deputy